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No. 06-1107

Supreme Court, U.S.
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In The

Supreme Court of the United States

WAYNE PERRYMAN ON BEHALF OF HIMSELF AND THE AFRICAN AMERICAN CITIZENS OF THE UNITED STATES,

Petitioner,

v.

DEMOCRATIC NATIONAL COMMITTEE AND NATIONAL DEMOCRATIC PARTY,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Ninth Circuit

SUPPLEMENTAL BRIEF

WAYNE PERRYMAN
Pro Se Litigant
P.O. Box 256
Mercer Island, WA 98040
Telephone (206) 232-5575
Fax (206) 232-2904
E-Mail Doublebro@aol.com

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SUPPLEMENTAL BRIEF FOR CASE NO. 06-1107

CONSTITUTIONAL PROVISIONS

This case is submitted under the provisions of the Constitution of the United States Fourteenth Amendment's Equal Protection Clause and Due Process Clause.

SUPREME COURT RULE 15.8 & NEW COURT DECISIONS

After submitting his *Writ of Certiorari* and after further research, the *Pro Se* Petitioner discovered two recent cases decided by this very court that present a different view of what the court considers as "*an injury in fact*." Because of this *new* information, the Petitioner is submitting this Supplemental Brief under Rule 15.8.

In previous court appearances, the Respondents failed to acknowledge that decisions regarding *standing* have varied as much as the diversity on the bench, and in ***recent*** cases involving Justices Breyer, Ginsburg, Stevens and Kennedy, the interpretation of what constitutes "*an injury in fact*" has varied as well. For instance, in the case of the *Federal Election Commission v. Akins*, (96-1590) 101 F.3d 731 (D.C. Cir. 1996), the Defendants argued that the Plaintiffs did not have *standing* because none had suffered "*an injury*." However in the majority opinion, issued by Justice Breyer, the court decided that Plaintiffs did have *an injury in fact* and therefore ***standing***, citing that the *denial of any information which is statutorily required to be provided to citizens by the government* constitutes *an injury in fact*.

SUPPLEMENT BRIEF ARGUMENTS

The court determined that even though the grievance in the *Federal Election case* was a ***generalized grievance*** (much like the lower court's claim in this case), the "***harm***" was concrete enough to overcome the Defendants' arguments.

In the case of *Friends of the Earth, Inc., et al. v. Laidlaw Environmental Services (TOC), Inc.*, (98-822) 528 U.S. 167 (2000), Justices Ginsburg, Stevens and Kennedy all agreed that contrary to the arguments presented by *Laidlaw*, the Plaintiffs in the *Friends of the Earth case* were also injured. The court was convinced that the Plaintiff's "*reasonable concerns about the effects of the Defendant's pollutant discharges, directly affected the affiant's recreational, aesthetic and economical interest.*" See, e.g., *Sierra Club v. Morton*, 405 U.S. 727, 735 (1972). The court felt the affidavits submitted by the Plaintiffs presented dispositively more than the mere "*general averment*" and "*conclusory allegations*" found inadequate in *Lujan v. National Wildlife Federation,* 497 U.S. 871, 888 (1990) or as the "*some day intentions*" to visit endangered species in various locations, was insufficient in the *Defenders of Wildlife*, 504 U.S. at 564.

In one case, the Supreme Court granted *standing* simply because the Plaintiff was denied information that he or she was entitled to (*Federal Election Commission* case), and in the other case, the court granted *standing* because the court believed the Constitution allows citizens who choose not to fish or swim in a stream because of *reasonable concerns about illegal pollution* also constitutes *an injury in fact* (*Friends of the Earth* case).

To compare the cases cited above with the current case where:

- An entire race of people (of which the Petitioner is a member) was tortured, terrorized and forced to live in fear for over 200 years because of beatings, lynchings, assassinations, and intimidations.
- A case where an entire race of people was forced to live in an environment where constitutional rights were denied, due process was ignored and a quality education was merely a dream.
- And a case where a race of people was forced to endure injustice while several pieces of racist legislation were passed against them as they watched impatiently while that same political party **vehemently** opposed several pieces of legislation that were introduced on behalf of them.

If it is determined that all of the above do not constitute "*an injury in fact*," such a decision would be viewed as an insult to the entire race and a travesty of justice, particularly when you weigh the fact that the same court gave an ***injury status*** and ***standing*** to a group that chose not to swim or fish in polluted waters and to another small group that was simply denied some information.

As the court can tell, this current case is not about not being able to fish or swim or because of *polluted waters* nor is it about being *denied information* because of a membership with a particular political organization. It is about:

- The *denial of constitutional rights* because you were a ***member*** of the *African American community*.

- It is about not having a choice but being forced to live in a *polluted Jim Crow environment* for over 200 years, an environment 100 times worse than the conditions at the Abu Ghraib and Guantanamo Bay prisons.

- It is about Jim Crow pollutions of racism that ***infected*** the entire nation and ***affected*** and ***harmed*** the *entire African American community* in a variety of ways, i.e., mentally, physically, emotionally, and economically.

In his book, The Audacity of Hope, Senator Barack Obama draws a connection between the Respondent's Jim Crow era, and issues involving **today's** inner city teenage parents and what he refers to as the: "*fifteen-year-old young men with a harrowing rap sheet, the shame of men who could not protect their women and support their families and children who grew up being told they wouldn't amount to anything.*" He describes these individuals: " . . . *As those who didn't make it out of history's confinement, of neighborhoods within the black community that house the poorest of the poor, serving as repositories for all the* ***scars of slavery and violence of Jim Crow****. . . .*" p. 252. According to historians, the number of blacks that died from the institution of slavery and Jim Crow, far exceeded the millions of Jews that died in the holocaust. Both incidents were triggered by ***racism*** and both amounted to mass murder. It was the Respondent that fought and gave their lives to maintain the institution of slavery and it was the Respondent that introduced legislation to establish the system of Jim Crow.

For over two hundred years, the Respondent found ways to use this very court and the law to enslave us, beat us, terrorize us and to murder us and now they are using

this same court and the law to keep from apologizing to us. African Americans often wondered: ***How could a political group be so cold, so cruel, so calloused and so inhumane? How could they stand by and watch others suffer and rejoice because of their suffering? How could they brutalize an entire race of people and destroy millions of lives and then hire attorneys so they wouldn't have to apologize? How could the courts and the law allow the Respondent to get away with these horrific acts of terror under the so-called letter of the law? Is the court so insensitive that it can't see right and wrong? Is the law so inflexible that it cannot hold those accountable for their immoral acts and wrongful deeds?***

It was under the *letter of the law* that the constitutional rights of blacks were denied and now it is under the *letter of the law* regarding the issue of *standing* that a formal apology is being denied. Alexander Solzhenitsyn said it best during his speech to Harvard in 1978. In that speech he spoke about the cold insensitive impact of the *letter of the law* and the moral mediocrity that it produces. He told the Harvard students that:

- *"Western society has given itself the organization best suited to its purposes, based, I would say, on the letter of the law. . . . People in the West have acquired a considerable skill in using, interpreting and manipulating law, even though laws tend to be too complicated for the average person to understand . . . . Any conflict is solved according to the letter of the law and this is considered to be the supreme solution. If one is right from a legal point of view, nothing is more required, nobody may mention that one could*

> *still be entirely right, and urge self-restraint, a willingness to renounce such legal rights, sacrifice and self-restraint, it would sound simply absurd. . . . A society which is based on the letter of the law and never reaches any higher is taking very scarce advantage of the higher level of human possibilities. The letter of the law is too cold and formal to have a beneficial influence on society. When ever the tissue of life is woven of legalistic relations, there is an atmosphere of moral mediocrity, paralyzing man's noblest impulses. . . ."*

In regards to the letter of the law, the court should be reminded that the rules on "***standing***" and the "***injury in fact***" doctrines originated from the *common law systems of writs*, and were intended to only apply to claims brought against the government (and its agencies) for violations of the Constitution (according to The Oxford Companion to the Supreme Court of the United States, pp. 956-958). Since that time, for reasons unknown, other courts have expanded the application of these doctrines to include other types of claims. *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992), and the *African American Slave Descendant* case, two cases that the Respondents often cite to support their arguments on *standing*, were suits brought against the government and its agencies and therefore necessitated *standing* according to the original intent of the law. It should be noted that unlike *Lujan* and the *African American Slave Descendant* case, this case does not involve claims against the government or any of its agencies.

The Petitioner also recognizes that because the current sitting justices were appointed by various Republican and Democratic administrations, the court may not be

comfortable deciding a case that involves a political party with which they may or may not be allied. Like many Defendants in controversial political cases, the Respondents are hoping that rather than a decision on the merits, the court will, as many have in the past, avoid the controversy by using the doctrine *of* "***standing***" as a surrogate for its decision or invoke the "***prudential***" dimensions of "***standing***" to accomplish the same. However the court must realize that as controversial as this case may be, our nation's citizens (both black and white) have waited patiently since the ending of the Civil War for this matter to be resolved. This case is not about partisan politics nor is it intended to inflict harm on the Democratic Party. It is about addressing a wrong that is long overdue and holding those accountable who committed this wrong.

For years African Americans struggled with the "***three-fifths***" clause of the Constitution, which basically said blacks were only "***three-fifths***" of a person. Next they had to deal with the court's *Dred Scott decision* that classified blacks as property but not as people. And now they are dealing with arguments claiming that their collective sufferings and injuries during the past 200 plus years do not add up to an ***injury in fact***.

In the current case, both the Appellate Court and the District Court decided that the Petitioner did not have *standing* even though both courts stipulated that Petitioner had been ***injured*** and his:

- ***Injury stem from the injury <u>inflicted</u> on <u>all</u> African Americans over two-hundred years ago and <u>affect</u> the <u>entire</u> African American community.***

The court has consistently overlooked the fact that this case was filed as a class action on behalf of the "*entire African American community,*" a class that according to the court had been "***injured***" and "***affected***" by such ***injuries***. As a member of that "*injured*" class the Petitioner filed this action seeking to obtain an apology on behalf of the *entire African American community* in accordance with the decision in *Cort v. Ash*, 422 U.S. 66 (1975), which gives a member of the class the legal authorization to file for an Injunctive Relief under 18 U.S.C. § 610 (see *Texas & Pacific R. Co. v. Rigsby*, 241 U.S. 33, 39 (1916)).

CONCLUSION

For years, our nation and the entire white race have been wrongfully labeled and branded as racist because of the deeds of one political organization. It was this powerful organization that passed legislation, sponsored litigation and formed terrorist organizations to harm African Americans. It is time to stop the ***blame game*** and place the responsibility on the one group that sponsored the most racist political agenda that our nation has ever known – and that group is the Democratic Party; a political organization that has never apologized nor have they ever attempted to apologize for the 200 years of atrocities that they committed against an entire race of people.

If the Court can find that denial of information in the *Federal Election Commission* case constitutes an ***injury in fact*** and that the polluted waters of a stream that ***could possibly affect*** the recreational, the aesthetic and the economic interest of fishermen and swimmers also constitutes an ***injury in fact*** (in the case of *Friends of the*

Earth), the Court must find that the Respondents' collective racist activities during the past 200 years (which according to the lower court ***have affected*** and ***injured*** the Petitioner and the *entire African American community*), is an "*injury in fact*" as well.

Because of the new case law presented in this Supplemental Brief along with the facts presented in the original brief, the Petitioner humbly and respectfully requests that the court grant his **Petition for Writ of Certiorari**.

Presented on this 3rd day of April 2007.

By:

WAYNE PERRYMAN,
Pro Se Petitioner